



XII- (Jail)
C.J. E. R.-2006-88

High Court of Madhya Pradesh
JABALPUR
Recd. on 24 MAY 1990
Registration 186
APPEAL OF PRISONER
C. J. Magistrate

C.A. 658/90

(2)

No. 1587 Name बनावर उराव
Father's name चरक उराव राम - करिया आता - बाबिकापुर
Residence सरगुजा (म.प्र.) Age 24 वर्ष पुरुष
Sentenced बाजन्म कारवास on 18.4.1990
Under section 302 I.P.C. by न्यायालय द्वितीय अपर सत्र न्यायाधीश सरगुजा
बाबिकापुर (म.प्र.) S.T. No - 24/89

It is explained to the prisoner that if he states or wishes to be represented by legal practitioner the Appellate Court will not proceed with the case for seven days unless the legal practitioner appears. If the legal practitioner does not appear within seven days he may not be heard at all. If the prisoner states that he does not wish to be represented by legal practitioner the court may proceed at once with the case and will not be obliged to give a hearing to any legal practitioner who should appear.

- 1 Date of Application for copy of Judgement 18.4.1990
- 2 Date of which copy received 10.5.1990
- 3 Date on which Appeal sent 15.5.1990
- 4 whether the prisoner wishes to be represented or not - Yes / No .

No. 1587 Name बनावर आत्मज चरक उराव
Continued in के.डी. जेल Jail रायपुर (म.प्र.)
No. 546 / अफ.को. 90 Dated 15.5.1990 198

Forwarded to the CHIEF JUDICIAL MAGISTRATE माननीय अति. पैजी जज महोदय
म.प्र. उच्च न्यायालय जमलपुर (म.प्र.)
to gather which a copy of order passed in the case for favour of transmission to the proper Appellate Court.

Superintendent

Date of receipt in C. J. M's office
Date of receipt record to accompany
Memo of Appeal of the Appellate court

No. Dated 198

Forwarded to the

C. J. Magistrate

Date of receipt in Appellate Court

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Cr. Appeal No. 698/1990

Banafar

Vs.

State of Madhya Pradesh (now Chhattisgarh)

JUDGMENT FOR CONSIDERATION

Sd/-
Dilip Raosaheb Deshmukh
Judge

Hon'ble Shri Justice Fakhruddin

I agree

Sd/-
Fakhruddin
Judge

Post for 18-07-2005

Sd/-
(JUDGE)
15-07-2005

HIGH COURT OF CHHATTISGARH AT BILASPUR**Cr. Appeal No. 698/1990**

Banafar

Vs.

State of Madhya Pradesh (now Chhattisgarh)

**CORAM : HON'BLE SHRI FAKHRUDDIN,
HON'BLE SHRI D.R.DESHMUKH, J.J.**

Shri Rakesh Jain with Smt. Kiran Jain and Smt. Nisha
Chaturvedi, Counsel for the appellant.

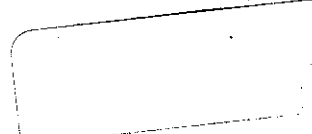
Shri U.N.S. Deo, Govt. Advocate for the State.

J U D G M E N T**(Delivered on 18-07-2005)****Per Dilip Raosaheb Deshmukh, J.**

1. This appeal is directed against the Judgment dated 18-04-1990 delivered by Shri S.K.Mishra, IInd Additional District & Sessions Judge, Ambikapur in Sessions Trial No. 84/89 whereby the appellant was convicted for the offences punishable under Section-302 of I.P.C. for committing murder of his daughter Meera aged about 11 years and son Deodhar aged about 8 years on 05-11-1988 in Village-Karia, P.S.-Ambikapur, District-Sarguja and was sentenced to undergo imprisonment for life for both the offences. The sentences were ordered to run concurrently.
2. Briefly stated the prosecution story is that on the intervening night of 4th-5th November, 1988, the appellant Banafar was sleeping in his house along with his daughter Meera aged 11 years and son

Deodhar aged 8 years. His wife had gone to her parents' house a day earlier. The father of the appellant Charku Ram was sleeping in another house. In the night at about 2 A.M., Charku Ram heard the shouts of Meera Bai and went there and saw that the door was locked from inside. The appellant did not open the door from inside and said that he would kill all of them. After hearing the shouts of beating the children, Charku Ram shouted whereupon Rameshwar Prasad PW-6, Sumar Sai PW-7, Mahabir PW-10 and Nanka, PW-11, arrived at the spot and at that time, the appellant was inside the room. After sometime, the appellant came out from the room. His hands were blood stained. The appellant made an extra judicial confession before the above witnesses that he had slain both the children Deodhar & Meera by the Shaving Razor. Thunnu Ram, PW-8 lodged Dehati Nalishi Ex.P-20 at about 8.30 A.M. on 05-11-1988 in Village-Karia, Police Station-Ambikapur. The panchnama of the dead body of Deodhar & Meera was prepared vide Ex.P-8 and Ex.P-19. The Postmortem was conducted on the dead bodies by Dr. A.K. Jain, Assistant Surgeon, District Hospital, Ambikapur. Dr. Jain vide report Ex.P-3 & Ex.P-4 found an incised wound in the front side of the neck on both the dead bodies extending from Right Sternoclenoid muscle to left sternoclenoid muscle, the skin flap situated wide apart showing the trachea, oesphgaus, carotid vessels, thyroid gland cut through & through. Dr. Jain opined that the death of Deodhar & Meera Bai was homicidal in nature and was caused due to shock & injury in blood vessels, wind & food pipe at the neck.

3. During investigation, on the memorandum Ex.P-9 of the appellant, one round solid stone and Shaving Razor were seized from the house of the appellant on 05-11-1988. Blood stained Lungi Ex.P-13 was also seized from the appellant's house. After completion of investigation, the accused was prosecuted for offences punishable under section-302 of I.P.C. The accused abjured his guilt. The prosecution examined as many as 12 witnesses. No evidence in defence was adduced by the appellant. The Learned Trial Judge relying upon the prosecution evidence convicted the appellant for committing the murder of his children i.e. Meera & Deodhar under section-302 of I.P.C. and sentenced him to undergo imprisonment for life for each offence under section-302 of I.P.C. The sentences were ordered to run concurrently.
4. The Learned Counsel for the appellant only contended that there was no eye-witness to the murder of Meera & Deodhar and the circumstantial evidence led by the prosecution did not establish the guilt of the appellant beyond reasonable doubt.
5. On the other hand, the Learned Govt. Advocate while supporting the Judgment of the Trial Court contended that the appellant had been released from Jail having undergone sentence upon grant of probation on the occasion of "Guru Ghasidas Jayanti" on 18-12-2002 by the State Govt.
6. We have considered the arguments of the Learned Counsel for the appellant and have also perused the



record and gone through the evidence led by the prosecution. So far as the nature of death of Meera aged about 11 years & Deodhar aged about 8 years, both children of the appellant, is concerned, the testimony of Dr. A.K. Jain PW-3 leaves no manner of doubt that the death of Meera & Deodhar was homicidal, since, both had been slain by a hard & sharp object and their Sternoclenoid muscles were completely cut and the trachea, oesophagus, carotid vessels, thyroid gland were also cut through & through. Thus, it is proved beyond doubt that both the children Meera & Deodhar had died a homicidal death.

7. We have also gone through the evidence of Thunnu Ram PW-8, Rameshwar Prasad PW-6, Sumar Sai PW-7 and Mahabir PW-10 and find that their testimony is wholly un rebutted. The Trial Court has rightly relied upon their testimony which establishes that upon an alarm being raised these witnesses had reached the place of occurrence and found that the appellant was inside the room and was not coming out. However, after sometime when the appellant came out, there was blood like stains in his hand and he made an extra judicial confession before these witnesses of having slain his children Meera & Deodhar by the Shaving Razor. There is absolutely nothing in the cross examination to indicate that the extra judicial confession by the appellant ^{was} not voluntarily and was obtained due to coercion.
8. We have also gone through the testimony of Deputy Superintendent of Police Shri Ratan Singh, PW-12. It establishes that he had recorded the memorandum of

appellant vide Ex.P-9. At the instance of the appellant, he had recovered the Shaving Razor vide Ex.P-10 from the house of appellant.

9. Having thus considered the prosecution evidence in its entirety, we are of the considered opinion that the circumstantial evidence led by the prosecution wholly excluded the hypothesis of the innocence of the accused and was wholly consistent with the hypothesis of the guilt of the appellant.
10. We are of the considered opinion that the conviction of the appellant for the offences punishable under section-302 of I.P.C. for committing the murder of his children i.e. Meera & Deodhar was based upon legal evidence. We therefore, find no infirmity in the Judgment of the Trial Court.
11. Accordingly, the appeal stands dismissed.

Sd/-
Fakhruddin
Judge

18-07-2005

Sd/-
Dilip Raosaheb Deshmukh
Judge

18-07-2005

SATISH